

San Francisco Bay Conservation and Development Commission

455 Golden Gate Avenue, Suite 10600, San Francisco, California 94102 tel 415 352 3600 fax 415 352 3606

December 19, 2016

Liz Gallhager, President
Scott's Jack London Seafood, Inc.
255 3rd Street, Suite 102
Oakland, California 94607

AND

Richard Sinkoff, Director of Environmental Program and Planning
Port of Oakland
530 Water Street
Jack London Square
P.O. Box 2064
Oakland, California 94607

SUBJECT: Issuance of Violation Report /Complaint for the Imposition of Administrative Civil Penalties; Scott's Jack London Seafood, Inc. and the Port of Oakland, (BCDC Enforcement File No. ER2013.009 and Permit File Nos. 1985.019.22A 1985.019.09B)

Dear Ms. Gallhager and Mr. Sinkoff,

As you know, there are many BCDC permit violations at and adjacent to the public pavilion portion of Scott's Jack London Seafood Restaurant, located in Jack London Square, that we have been unable to resolve with Scott's Jack London Seafood, Inc. ("Scott's") and the Port of Oakland ("Port"). On November 3, 2016, the Commission rejected the proposed stipulated order negotiated by Scott's, the Port, and staff. Furthermore, the Commission directed staff to commence a formal enforcement proceeding if we were unable to return to the Enforcement Committee within two months with a revised stipulated proposed order that fully responded to the Commission's direction.

By letter dated December 8, 2016, from your counsel, Michael Verna, to BCDC's Chief Counsel, Marc Zeppetello, staff received a settlement proposal from Scott's. After carefully reviewing Scott's proposal, and following two telephone conversations last week between Mr. Verna and Mr. Zeppetello to further explore the prospects for settlement, we have determined that it will not be possible to reach a negotiated settlement with Scott's and the Port that could be presented to the Enforcement Committee at its next potential meeting date, January 19, 2017. Our grounds for reaching this conclusion are set forth in a letter of today's date from Mr. Zeppetello to Mr. Verna.

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Therefore, as directed by the Commission, we are commencing a formal enforcement proceeding. The first step in this process is to issue the enclosed Violation Report / Complaint for the Imposition of Administrative Civil Penalties ("Violation Report/Complaint") that sets forth the Commission staff's allegations.

The Commission's law provides you with the opportunity to submit a "statement of defense" within 35 days of the date of mailing of the Report/Complaint, or **by no later than January 23, 2017**. Thereafter, the Enforcement Committee, a six-member subcommittee of the Commission, will hold an administrative hearing to consider the facts and determine whether it should recommend that the Commission issue a cease and desist and civil penalty order. The Enforcement Committee is scheduled to hold its public hearing on **February 16, 2017**. The full Commission will make the final determination whether to issue a cease and desist and civil penalty order after the Enforcement Committee's public hearing and after considering the Enforcement Committee's recommended enforcement decision.

I have enclosed the following documents: (1) the Violation Report/Complaint; (2) a Statement of Defense form; and (3) a copy of Chapter 13 of the Commission's regulations that govern the enforcement process. Please let me know if you would like me to email an electronic copy of the Statement of Defense form.

If you have any questions, please don't hesitate to contact Adrienne Klein, Chief of Enforcement, by phone at (415) 352-3609 or by email at adrienne.klein@bcdc.ca.gov or Marc Zeppetello, Chief Counsel, by phone at (415) 352-3655 or by email at marc.zeppetello@bcdc.ca.gov.

Sincerely,



LAWRENCE J. GOLDZBAND
Executive Director

LG/MAZ/go

Enclosures

cc: Michael P. Verna, Bowles and Verna LLP
Danny Wan, Esq., Port of Oakland